

**APPLICATION OF 3 LAKE AVENUE  
EXTENSION, LLC FOR ZONING  
REGULATION AMENDMENTS**

**SUBMITTED TO THE CITY OF  
DANBURY ZONING COMMISSION**

**AUGUST 16, 2021**

**Applicant:**

3 Lake Avenue Extension, LLC  
c/o Pacific House  
Rafael Pagan, Executive Director  
137 Henry Street  
Stamford, CT 06902

**Agent/Counsel:**

Timothy S. Hollister  
[thollister@hinckleyallen.com](mailto:thollister@hinckleyallen.com)  
Hinckley Allen  
20 Church Street  
Hartford, CT 06103  
PHONE: (860) 331-2363  
Attorney for 3 Lake Avenue Extension, LLC

# TABLE OF CONTENTS

## August 16, 2021

15 Copies of Zoning Regulations and Application filed pursuant to § 10.I.1 of Zoning Regulations; e-copy filed with City Staff

### Tabs:

1. Transmittal and overview letter, Hinckley Allen, August 16, 2021, including § 10.I.1 narrative requirements
2. City of Danbury application form for zoning regulation amendment
3. Proposed zoning regulation amendment
4. Owner authorization letter; April 2021 deed to 3 Lake Avenue Extension, LLC; and Assessor Card
5. Materials from April 2021 use variance application
6. Zoning Map excerpts showing subject parcel 3 Lake Avenue Extension

### Submitted Separately:

Check payable to "City of Danbury" for total application fees of \$1,060.00 (\$500.00 zoning amendment fee, \$60.00 state land use fee, and \$500.00 legal advertisement fee)

Tab 1



20 Church Street  
Hartford, CT 06103-1221  
p: 860-725-6200 f: 860-278-3802  
hinckleyallen.com

**Timothy S. Hollister**  
**(860) 331-2823 (Direct)**  
**(860) 558-1512 (Cell)**  
thollister@hinckleyallen.com

August 16, 2021

**VIA HAND DELIVERY AND E-FILE**

Theodore J. Haddad, Jr., Chair, and Members  
Danbury Zoning Commission  
City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810

**Re: Application of 3 Lake Avenue Extension, LLC for  
Zoning Regulation Amendment**

Dear Chair Haddad and Zoning Commission Members:

We represent 3 Lake Avenue Extension, LLC. The LLC's managing member is Pacific House, a non-profit housing organization based in Stamford. On its behalf, we are filing this application for a zoning regulation amendment to the CA-80 Arterial Commercial Zone, to allow a transitional shelter for the homeless as a special exception use at a defined location on Lake Avenue Extension.

The attached application proposes four (4) changes to the existing City of Danbury Zoning Regulations. First, under § 2.B, this application will change the existing definition of the term "Dwelling unit." Second, under the same section (2.B), this application will change the definition of the term "Shelter for the homeless." Third, again under the same section (2.B), this application will create a new definition for the term, "Transitional shelter for the homeless." Finally, under § 5.B, this application will add as a Special Exception Use for "Transitional shelter for the homeless," with regulation stated in a new § 5.B.5.g. The location criteria for "Transitional shelter for the homeless" are stated so that the specific property at 3 Lake Avenue Extension will qualify for that use.

**Background**

Danbury has been recognized for its proactive approach to assisting the City's lowest income and homeless population. As of early 2020, the City operated a single shelter for homeless individuals. This shelter was so-called "dormitory" style, hosting multiple individuals in the same room. With the advent of the pandemic, State officials recognized that these dormitories made Covid-19 transmission more likely, and sought alternatives, one of which was single-room occupancy ("SRO"), as found in a hotel or motel. The Super 8 motel at 3 Lake Avenue Extension was identified as an SRO facility, and placement of homeless individuals



began there in the spring of 2020. This operation was on an emergency basis and was carried out under several of Governor Lamont's pandemic orders. The Governor's pandemic orders governing homeless shelters and emergency housing were recently extended to September 30, 2021.

The Super 8 motel is located on a site in the CA-80 zone, where hotels and motels are a permitted use, and has an approved site plan, though the lot on which the Super 8 is located is non-conforming at least with respect to street frontage. Throughout 2020 and for several months during 2021, the Super 8 motel accepted motel guests and placement of homeless individuals.

A shelter for the homeless, however (which is a defined term in the Zoning Regulations), is currently not a permitted or special exception use in the CA-80 zone. Recognizing that the Governor's pandemic orders would not be permanent, in 2020 a proposal emerged to have a non-profit housing organization purchase the Super 8 with State financial assistance, and operate it as a facility to serve homeless individuals with both emergency room units and supportive services. In April 2021, the Super 8 was purchased with Connecticut Department of Housing financial assistance by 3 Lake Avenue Extension, LLC. In connection with this purchase, Pacific House has been working to develop a revised operating program and zoning classification under which the 3 Lake Avenue Extension property may operate on a permanent basis. The revised model is as a "transitional shelter for the homeless." To implement this revised model, Pacific House has put together this application to amend the City Zoning Regulations.<sup>1</sup>

#### **This Application; Justifications (as required by § 10.I.1 of the Regulations)**

This application seeks to amend the CA-80 zoning regulation to allow, with defined locational criteria and conditions, services for those experiencing homelessness, including supportive services and emergency shelter beds. The locational limits are stated so that the specific property at 3 Lake Avenue Extension will qualify. The text of the proposed regulation is at Tab 3 of this application package. If the amendment is adopted, a special exception application for 3 Lake Avenue Extension will follow.

There are several justifications for this application.

1. The CA-80 Zoning Regulations allow several uses that closely resemble the proposed transitional shelter for the homeless. Permitted uses include adult day care, hotels and motels, and colleges and universities (which often have a residential component). As noted, the former Super 8 building continued to operate as a motel up until its acquisition by 3 Lake Avenue Extension, LLC in April 2021, so the main differences between that facility and what

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<sup>1</sup> 3 Lake Avenue Extension, LLC filed an application for a use variance in April 2021 with the Zoning Board of Appeals. While 3 Lake Avenue Extension, LLC has since rescinded this use variance application, various documents related to that application have been appended to this application under Tab 5. Specifically, during the application process for the use variance, City staff issued a memo, dated April 15, 2021, where staff confirmed that the proposed use of the 3 Lake Avenue Extension property under the use variance application was consistent with the City Plan of Conservation and Development.

would be allowed by the proposed zoning regulation amendment are the addition of supportive services and more proactive management of the building's occupants. Special exception uses in the CA-80 zone include congregate care, continuing care, day care, and nursing homes. Thus, short term, longer term, and transitional/supportive temporary shelter services are already allowed *de facto* in the CA-80 zone. As a legal matter, this means that a transitional shelter for the homeless is "consistent with the City's comprehensive plan," in that the zoning regulations already allow similar uses.

2. The creation of this proposed new use within an existing zone is based on the evolution of the State's model for meeting emergency and supportive unit needs. The pre-pandemic dormitory style of shelter has been abandoned for public safety reasons, and the proposed transitional shelter for the homeless is a better, more efficient way to deliver units where and when most needed.

3. The amendment to the existing zoning regulations (as discussed on the first page of this letter) is necessary to implement the transitional shelter for the homeless use in the CA-80 zone. Specifically, a "Dwelling unit," defined as a "housing unit..." is not allowed within the CA-80 zone. Danbury Zoning Regs., §§ 2.B and 5.B.2.(a)-(b). However, the definition of "Dwelling unit" excludes certain uses as "not considered dwelling units," which are allowed uses within the CA-80 zone. Danbury Zoning Regs., § 2.B. Pursuant to this application, "Transitional shelter for the homeless" will be added to the list of uses not considered dwelling units. Similarly, the definition of "Shelter for the homeless" will be updated to define such a use as "dormitory/congregate style," to differentiate it from the proposed "Transitional shelter for the homeless."

4. The regulation amendment is consistent with the City's current Plan of Conservation and Development. The Housing Section (pp. 35 and 36) recommends that the City ensure that programs and services exist to assist the homeless population.

5. The City's Zoning Map shows many places where a relatively small geographic area is zoned to achieve a particular purpose. Moreover, the zoning maps for 3 Lake Avenue Extension and its surrounding area (Tab 6) show a patchwork of zones in the area, including CA-80, CC-10, CG-20, IG-80, CN-5, and RMF-4.

6. While opponents of this application may claim that its site-specific locational criteria make it spot zoning, it is clear from Connecticut case law that this application, if approved, will be legally defensible. Former Judge Robert Fuller, in his treatise *Connecticut Land Use Law and Practice* (§ 4.8, 4th ed. 2018), states:

The concept [of spot zoning] gradually evolved so that two elements were required for a zone change to be illegal as spot zoning: (1) a change of zone affecting only a small area of land and (2) a change which is out of harmony with the comprehensive plan for the good of the community as a whole. [Citing *Langer v. Planning and Zoning Commission of Westport*, 163 Conn. 453, 461 (1972).] A zone change to allow a McDonalds restaurant with a drive through window and amending a regulation which only permitted a restaurant without drive through windows was not considered to be spot zoning where it was not



contrary to the town's comprehensive plan. [Citing *Michel v. Planning and Zoning Commission*, 28 Conn. App. 314, 320 (1992)] . . . .

The spot zoning concept has become obsolete because the size of the parcel involved in a zone change is immaterial if the commission's action meets the two part test for a zone change: (1) the zone change is in accordance with the comprehensive plan and (2) it is reasonably related to the normal police power purposes in § 8-2 of the General Statutes. *First Hartford Realty Corporation v. Plan and Zoning Commission of Bloomfield*, 165 Conn. 533, 541 (1973); *Summ v. Zoning Commission of Ridgefield*, 150 Conn. 79, 87, 91 (1962).

Here, the proposal is a public health and safety necessity, and consistent with the City's comprehensive land use plan as found in its Zoning Regulations.

In summary, there are documented factual and legal bases for approving this regulation. 3 Lake Avenue Extension, LLC looks forward to presenting this application to the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tim Hollister", with a stylized flourish at the end.

Timothy S. Hollister

cc: Rafael Pagan  
Larry Kleutsch  
Mayor Cavo  
Sharon Calitro  
Robin Edwards, Esq.

Tab 2





**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING COMMISSION  
www.ci.danbury.ct.us

(203) 797-4525  
(203) 797-4586 (FAX)

**PETITION TO AMEND THE ZONING REGULATIONS**

<b>Date:</b>	August 16, 2021
<b>Name, Address &amp; Phone No. of Applicant:</b> (if applicant is a trustee, also list beneficiaries):	3 Lake Avenue Extension, LLC c/o Pacific House 137 Henry St., Stamford, CT 06092
<b>Name and Address of any client or principal on whose behalf the petition is being submitted:</b>	
<b>Name, Address &amp; Phone No. of Agent:</b> (if applicable)	Timothy S. Hollister Hinckley Allen 20 Church St., Hartford, CT 06103
<b>Section(s) of the Zoning Regulations to be amended:</b>	Section 2.B (amending existing definitions and adding new definition); Section 5.B (subsections (19)-(21)); and Section 5.B.5 (addition of subsection (g)). (See Transmittal and Overview Letter, Tab 1)
<b>State briefly why this petition should be granted:</b>	Please see attached Transmittal and Overview letter, included in this application packet as Tab 1, for a detailed explanation of why this petition should be granted.

**Submit ten copies of the Petition and the following:**

1. Filing Fee of \$560.00, payable to the City of Danbury (includes \$60.00 State Land Use Application Fee as required per P.A. 09-3 §396 of C.G.S.).
2. Legal advertisement fee of \$500.00 for public hearing and notice of decision (to be paid at time of Application).
3. Ten copies of Proposed Amendment(s), pursuant to instructions in Section 10.I.1.b. of the Zoning Regulations.

Applicant/Agent: Timothy S. Hollister  
Signature

8.12.2021  
Date

Tab 3

# ZONING REGULATIONS AMENDMENT

Amend the Zoning Regulations as follows. Additions are underlined; and deletions are [bracketed] and have a ~~strikethrough~~.

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## SECTION 2. DEFINITIONS

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### 2.B DEFINITIONS.

**Dwelling unit.** A housing unit containing a single room or group of rooms designed for occupancy as separate living quarters by one family. Separate living quarters are those in which occupants have direct access to the unit from outside of the building or through a common hall and which contain separate bedrooms (other than efficiency units) and provisions for living, dining, kitchen and bathroom facilities for the exclusive use of the occupants. The following uses are not considered dwelling units as defined herein: clubs; congregate housing; dormitories; fraternal organizations; fraternity or sorority houses; hotels or motels; nursing homes; rooming houses or boarding houses; shelters for the homeless; transitional shelters for the homeless; or, similar uses. [Rev. 11/26/2011]

**Shelter for the homeless.** A facility providing only temporary dormitory/congregate-style housing and ~~[ancillary]~~ associated services for one or more individuals who would otherwise be without shelter; homeless shelter.

**Transitional shelter for the homeless.** A facility that provides both supportive units and emergency shelter rooms and associated services to those experiencing homelessness, which such facility is controlled and operated by either (1) a non-profit housing organization pursuant to a contract with the Connecticut Department of Housing; or (2) the City of Danbury. Supportive units shall consist of a room/rooms with an area for sleeping and contain a kitchenette comprised only of a mini-refrigerator and microwave, a bathroom, and a required sink. Gas or electrical services for ovens, ranges, cooktops and associated venting shall not be permitted within any supportive units or emergency shelter rooms. The facility shall contain offices for supportive services including but not limited to social and case management services, counseling, and similar programs and supportive services provided by the non-profit or City to enable individuals experiencing homelessness to transition to permanent housing and self-sufficiency. All supportive units and emergency shelter rooms within the facility shall qualify as affordable housing within the meaning of CGS Section 8-30g as follows: supportive units shall be restricted in occupancy to persons or families, identified as family units within the meaning of CGS Section 8-30g, whose income is equal to or less than forty (40) percent of the state median income for a term no less than forty (40) years; and, emergency shelter rooms shall be restricted in occupancy to persons or families, identified as family units within the meaning of CGS Section 8-30g, whose income is equal to or less than fifty (50) percent of the state median income for a period of not less than fifteen (15) years; transitional homeless shelter.



## SECTION 5. ARTERIAL COMMERCIAL DISTRICT: CA-80

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### 5.B.2.b. Special Exception Uses

(19) Transitional shelter for the homeless. See Section 5.B.5.g.

(~~[19]~~ 20) Truck terminal, warehouse, moving and storage establishment; self-service storage. See Section 6.C.3.

Renumber remaining uses consecutively.

### 5.B.5. Specific Use Regulations: Special Exception Uses.

The following use regulations shall apply to the special exception uses specified below.

#### g. Transitional shelter for the homeless.

- (1) Vehicular access to the site shall be provided solely from an arterial street.
- (2) The site shall abut a ramp of Interstate 84.
- (3) The facility shall contain no greater than a total of eighty-six (86) supportive units and emergency shelter rooms used as accommodations for individuals experiencing homelessness and/or transitioning from homelessness to permanent housing.
- (4) There shall be no greater than forty-eight (48) supportive units within the facility.
- (5) No supportive unit or emergency shelter room shall be occupied by more than two (2) individuals; however, in emergency situations, more than two (2) individuals may be housed in a one-bedroom suite, provided that the total number of individuals accommodated within the facility shall not exceed one-hundred-and-seventy-two (172).
- (6) Laundry facilities shall be available and accessible to emergency shelter room occupants, and a laundry room shall be located on each floor with supportive units for use by said supportive unit occupants.
- (7) No exterior site or façade alterations shall be made without required permits and approvals issued by the City of Danbury.
- (8) The facility may contain a room within the building where food is provided to shelter occupants, subject to obtaining all required permits and approvals.
- (9) An interior layout plan of the facility shall be submitted with any application for special exception and site plan approval and shall accompany the application for issuance of a Zoning Permit to use the site as a transitional shelter for the homeless.
- (10) All supportive units and emergency shelter rooms shall have access solely from an interior hallway. No supportive unit or emergency shelter room



- shall be accessed from the exterior of the building, unless such access is required for life safety as determined by the Fire Marshal.
- (11) The non-profit entity operating said transitional shelter for the homeless shall issue a written report to the Department of Health and Human Services and the Zoning Enforcement Officer by January 31<sup>st</sup> of each year beginning in 2022 certifying compliance with these additional use regulations, the use definition, and affordability components contained therein.
- (12) All required occupancy restrictions for supportive units and emergency shelter rooms, as required by the use definition, shall be submitted with the application for special exception and site plan approval and shall be recorded on the Danbury Land Records prior to issuance of a Zoning Permit. Prior to recording, said occupancy restrictions shall be submitted by the facility operator to the Office of the Corporation Counsel for review and approval as to form and content. Copies of recorded restrictions shall be filed with the Zoning Enforcement Officer, and Directors of the Departments of Health and Human Services and Planning and Zoning.
- (13) The Planning Commission may request such additional information as necessary to determine compliance and issue findings in accordance with Section 10.C.4 of these Regulations.

Tab 4



137 Henry Street #205  
Stamford, CT 06902  
www.pacifichouse.org

e: info@pacifichouse.org  
t: 203.406.0017  
f: 203.406.9619

August 16, 2021

Theodore J. Haddad, Jr., Chair and Members  
Danbury Zoning Commission  
City of Danbury  
155 Deer Hill Ave  
Danbury, CT 06810

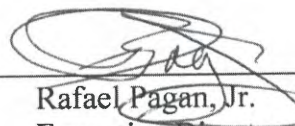
Re: Application of 3 Lake Avenue Extension, LLC for Zoning Regulation  
Amendment

Dear Chair Haddad and Zoning Commission Members:

I am the Executive Director of 3 Lake Avenue Extension, LLC, the owner of real property located at 3 Lake Avenue Extension in Danbury, Connecticut (the "Property") and the applicant for the above zoning regulation amendment.

I hereby authorize 3 Lake Avenue Extension, LLC and its attorneys with Hinckley Allen to pursue the above application dated August 16, 2021 relating to the request to amend certain Zoning Regulations in the City of Danbury.

Very truly yours,

By:   
Rafael Pagan, Jr.  
Executive Director  
3 Lake Avenue Extension, LLC  
c/o Pacific House, Inc.



OP-236

Connecticut Real Estate Conveyance Tax Return (Rev. 04/17)

For Town  
Clerk Use  
Only

Town Code

Land Record

Vol. ▶

Pg. ▶

Complete Form OP-236 in blue or black ink only.

1. Town  
▶ DANBURY
2. Location of property conveyed (number and street)  
▶ 3 LAKE AVENUE EXTENSION
3. Are there more than two grantors/sellers? ▶ Yes If Yes, attach OP-236 Schedule A - Grantors, Supplemental Information for Real Estate Conveyance Tax Return.
4. Grantor/seller #1 (last name, first name, middle initial)  
▶ RAM KRISNA PR, LLC  
Grantor/seller address (street and number) after conveyance  
▶ 3 LAKE AVENUE EXTENSION
5. Grantor/seller #2 (last name, first name, middle initial)  
▶  
Grantor/seller address (street and number) after conveyance  
▶
6. Is the grantor a partnership, S corporation, LLC, estate, or trust? ▶ Yes If Yes, attach OP-236 Schedule A - Grantors
7. Was more than one deed filed with this conveyance? ▶ Yes
8. If this conveyance is for no consideration or less than adequate consideration, which gift tax returns will be filed? ▶ Federal only State only Both fed. & state None
9. Is there more than one grantee/buyer or, is the grantee a partnership, S corporation, LLC, estate, or trust? ▶ Yes If Yes, attach OP-236 Schedule B - Grantees, Supplemental Information for Real Estate Conveyance Tax Return.
10. Grantee/buyer (last name, first name, middle initial)  
▶ 3 LAKE AVENUE EXTENSION LLC  
Grantee/buyer address (street and number) after conveyance  
▶ 137 HENRY STREET, SUITE 205
11. Date conveyed (MM-DD-YYYY)  
▶ 04-28-2021
12. Date recorded (MM-DD-YYYY)  
▶ - - -
13. Type of instrument:  
▶ X Warranty Quitclaim Easement Other
14. The grantor claims no tax is due because (See instructions.): ▶ Conveyance was for no consideration or consideration was less than \$2,000.  
▶ Conveyance is exempt under Conn. Gen. Stat. §12-498. Enter exemption code:  
If exemption code is 01 or 09, enter citation or docket number:

Computation of Tax - Enter consideration for conveyance on the appropriate line. See Instructions.

- ▶ 15. Consideration for unimproved land x 0.0075 = 0.00
- ▶ 16. Total consideration for residential dwelling
- ▶ 16a. Portion of Line 16 that is \$800,000 or less x 0.0075 = 0.00
- ▶ 16b. Portion of Line 16 that exceeds \$800,000 0.00 x 0.0125 = 0.00
- ▶ 17. Residential property other than residential dwelling x 0.0075 = 0.00
- ▶ 18. Nonresidential property other than unimproved land 4,625,000.00 x 0.0125 = 57,812.50
- ▶ 19. Property conveyed by a delinquent mortgagor x 0.0075 = 0.00
- ▶ 20. Total State of Connecticut tax due: Add Lines 15, 16a through 19. 57,812.50

Declaration: I declare under penalty of law that I have examined this return (including any accompanying schedules and statements) and, to the best of my knowledge and belief, it is true, complete, and correct. I understand the penalty for willfully delivering a false return to the Department of Revenue Services (DRS) is a fine of not more than \$5,000, or imprisonment for not more than five years, or both. The declaration of a paid preparer other than the taxpayer is based on all information of which the preparer has any knowledge.

Indicate who is signing this return:  
Name of person signing the return (type or print)

MICHAEL G. MILAZZO

Name of grantor's representative (type or print)

Grantor

X Grantor's attorney  
Signature

Connecticut juris number if applicable

▶ 101044

Grantor's authorized agent  
Date

04/28/2021

Telephone number

(203) 787-7744



# Town Clerk Copy

**OP-236**

**Connecticut Real Estate Conveyance Tax Return**  
(Rev. 04/17)

For Town  
Clerk Use  
Only

Town Code

Land Record

Vol.

Pg.

Amended return

1. Town

DANBURY

2. Location of property conveyed (number and street)

3 LAKE AVENUE EXTENSION

3. Are there more than two grantors/sellers? Yes

4. Grantor/seller #1 (last name, first name, middle initial)

RAM KRISNA PR, LLC

Grantor/seller address (street and number) after conveyance

3 LAKE AVENUE EXTENSION

City/town

DANBURY

State ZIP code

CT

06811

5. Grantor/seller #2 (last name, first name, middle initial)

Grantor/seller address (street and number) after conveyance

City/town

State ZIP code

6. Is the grantor a partnership, S corporation, LLC, estate, or trust?

Yes

7. Was more than one deed filed with this conveyance?

Yes

8. If this conveyance is for no consideration or less than adequate consideration, which gift tax returns will be filed?

Federal only

State only

Both fed. & state

None

9. Is there more than one grantee/buyer or, is the grantee a partnership, S corporation, LLC, estate, or trust?

Yes

10. Grantee/buyer (last name, first name, middle initial)

3 LAKE AVENUE EXTENSION LLC

Grantee/buyer address (street and number) after conveyance

137 HENRY STREET, SUITE 205

City/town

STAMFORD

State ZIP code

CT

06902

11. Date conveyed (MM-DD-YYYY)

04-28-2021

12. Date recorded (MM-DD-YYYY)

- - - - -

13. Type of instrument:

☒ Warranty

Quitclaim

Easement

Other

14. The grantor claims no tax is due because (See instructions.):

Conveyance was for no consideration or consideration was less than \$2,000.

Conveyance is exempt under Conn. Gen. Stat. §12-498. Enter exemption code:

If exemption code is 01 or 09, enter citation or docket number:

Computation of Tax - Enter consideration for conveyance on the appropriate line. See Instructions.

15. Consideration for unimproved land

x 0.0075 = 0.00

16. Total consideration for residential dwelling

16a. Portion of Line 16 that is \$800,000 or less

x 0.0075 = 0.00

16b. Portion of Line 16 that exceeds \$800,000

0.00

x 0.0125 = 0.00

17. Residential property other than residential dwelling

x 0.0075 = 0.00

18. Nonresidential property other than unimproved land

4,625,000.00

x 0.0125 = 57,812.50

19. Property conveyed by a delinquent mortgagor

x 0.0075 = 0.00

20. Total State of Connecticut tax due: Add Lines 15, 16a through 19.

57,812.50

Warranty Deed

To all People to Whom these Presents Shall Come, Greeting:

Know Ye, that RAM KRISNA PR, LLC, A Connecticut Limited Liability Company of the Town of Danbury and State of Connecticut herein designated as the Grantor,

for the consideration of

FOUR MILLION SIX HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$4,625,000.00)

received to the full satisfaction of the Grantor, from 3 LAKE AVENUE EXTENSION LLC, a Connecticut Limited Liability Company

whose mailing address is: 137 HENRY STREET, SUITE 205, STAMFORD, CT, 06902

hereinafter designated as the Grantee, do hereby give, grant, bargain, sell and convey to the Grantee and unto such Grantee's successors and assigns forever:

That certain parcel and parcel of land with improvements thereon known as 3 Lake Avenue Extension located in the City of Danbury, County of Fairfield, State of Connecticut all as more particularly set forth on Schedule A attached hereto and made a part hereof.

Said property is conveyed subject to:

1. Taxes on the first quarter of the Grand List of October 1, 2020, and all subsequent taxes not yet due and payable.
2. Building lines if established, all laws (public and private), ordinances and/or governmental regulations including but not limited to zoning ordinances and in land wetlands regulations.
3. Any assessment or pending assessment due and payable after the date of the Closing.
4. No access to relocated U.S. Route 6 in Certificate of Taking by the State of Connecticut dated 11/20/1958 and recorded in Volume 337 at Page 423 of the Danbury Land Records; and in Warranty Deed from Donald Richard Jason Keeler to the State of Connecticut dated 3/21/1967 and recorded in Volume 447 at Page 392 of the Danbury Land Records;
5. Variance Certificate by the Danbury Zoning Board of Appeals dated 4/13/1989 and recorded in Volume 920 at Page 410 of the Danbury Land Records;
6. Rights of the present tenants, lessees or parties in possession not shown by the public records
7. Such facts as an accurate survey or physical inspection of the property would reveal.
8. Those additional items shown on title commitment number 8911139 dated



To have and to hold the premises hereby conveyed, with the appurtenances thereof, unto the Grantee and unto the Grantee's successors and assigns forever, to their proper use and behoof; and the Grantor does for itself, its successors and assigns covenant with the Grantee, and with the Grantee's successors and assigns, that the Grantor is well seized of the premises as a good indefeasible estate in FEE SIMPLE; and have good right to grant and convey the same in manner and form as herein written and the same are free from all encumbrances whatsoever, except as herein stated.

And Furthermore, the Grantor does by these presents bind itself and its successors and assigns forever to WARRANT AND DEFEND the premises hereby conveyed to the Grantee and to such Grantee's successors and assigns against all claims and demands whatsoever, except as herein stated.

In all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the test of the within instrument may require.

IN WITNESS WHEREOF, the Grantor has hereunto set their hand and seal, or if a corporation, it has caused these presents to be signed by its corporate officers and its corporate seal to be affixed hereto, this 28<sup>th</sup> day of April, 2021.

signed, sealed and delivered in the presence of:

  
Michael G. Milazzo


By: Haresh Rangwani, Manager

Nayeli P.  
Nayeli Perales

STATE OF CONNECTICUT )  
 ) SS  
COUNTY OF NEW HAVEN )

April 28, 2021

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of April, 2021, by Haresh Rangwani who acknowledged himself to be a Manager of RAM KRISNA PR, LLC, a Connecticut Limited Liability Company, signer and sealer of the foregoing instrument for the purposes stated therein.

  
Michael G. Milazzo  
Commissioner of Superior Court

#### SCHEDULE A

ALL THAT certain piece or parcel of land, with all buildings and improvements thereon situated in the City of Danbury, Fairfield County and State of Connecticut, shown and depicted on that certain survey entitled, "Area 1.519 acres map prepared for Super 8 Motels of Danbury, Inc., 99 Lake Avenue Extension, Danbury, Connecticut (sic)", this survey dated December 20, 1982 and certified correct within the standard of accuracy of a Class A-2 survey by Sydney A. Rapp, Jr. R.L.S. No 7400 is on file in the Danbury own Clerk's Office as Map No. 7437.



CERTIFICATE OF MANAGER/MEMBER  
OF RAM KRISNA PR, LLC

I, Haresh Rangwani Manager/Member of RAM KRISNA PR, LLC, a Limited Liability Company duly organized and validly existing under the laws of the State of Connecticut, DO HEREBY CERTIFY:

1. That a true and complete copy of the Operating Agreement, as in effect on this date is attached hereto as Exhibit A.

2. That a true and correct copy of the Articles of Organization as now in effect are attached hereto as Exhibit B and made a part hereof;

IN WITNESS WHEREOF, I have hereunto subscribed my name on the 28<sup>th</sup> day of April, 2021.



Haresh Rangwani  
Manager/Member of RAM KRISNA PR, LLC  
Duly Authorized

Transferor : **RAM KRISNA PR, LLC**  
Transferee: **3 LAKE AVENUE EXTENSION LLC**  
U.S. Real Property Interest: **3 Lake Avenue, Extension Danbury, Connecticut**

**CERTIFICATION OF NON-FOREIGN STATUS**

Section 1445 of the Internal Revenue Code provides that a Transferee of a U.S. real property interest must withhold tax if the Transferor is a foreign person. To inform the Transferees that withholding of tax is not required upon the disposition of U.S. real property interest by **RAM KRISNA PR, LLC** ("Transferor"), the undersigned hereby certifies to the following on behalf of the Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

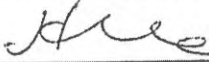
2. Transferor's TAX ID No is: 06-1559295

3. Transferor's address is: 3 Lake Avenue Extension  
Danbury, Connecticut 06811

Transferor understand that this certificate may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

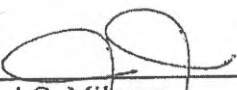
Under penalties of perjury we declare that we have examined this certification and to the best of our knowledge and belief it is true, correct, and complete.

**RAM KRISNA PR, LLC**

By   
Haresh Rangwani  
Its Manager

Date: April 28, 2021

Subscribed and sworn to, before me, this 28<sup>th</sup> day of  
April, 2021.

  
Michael G. Milazzo  
Commissioner of Superior Court

## BILL OF SALE

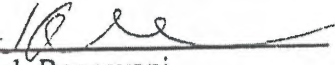
KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned **RAM KRISNA PR, LLC**, a Connecticut Limited Liability Company, having an address of 3 Lake Avenue Extension, Danbury, Connecticut (hereinafter referred to as "**SELLER**"), hereby conveys, sells, transfers, assigns and delivers to **3 LAKE AVENUE EXTENSION LLC** (hereinafter referred to as "**BUYER**"), and the **BUYER'S** successors and assigns forever with **WARRANTY COVENANTS**, the tangible personal property and intangible property used in the operation of the property located at 3 Lake Avenue Extension, Danbury, Connecticut except those set forth on **Exhibit A** attached hereto and made a part hereof.

**SELLER** warrants and represents that it has good title to said property, full authority to sell and transfer same and that said goods and chattels are being sold free and clear of all liens, encumbrances, liabilities and adverse claims of every nature and description whatsoever.

**BUYER** acknowledges that Buyer is accepting such assets in their "**AS IS, WHERE IS**" physical condition.

DATED this 28<sup>th</sup> day of April, 2021.


**RAM KRISNA PR, LLC**

By:   
Haresh Rangwani  
Its Manager

**STATE OF CONNECTICUT)**

**COUNTY OF NEW HAVEN)**

On this day of April, 2021, before me the undersigned officer, personally appeared Haresh Rangwani, who acknowledged himself to be the Manager of **RAM KRISNA PR, LLC**, a Connecticut Limited Liability Company, signer and sealer of the foregoing instrument and who acknowledged that he executed the same for the purposes therein contained, as his free act as said Manager and the free act and deed of said Limited Liability Company.

  
Michael G. Milazzo  
Commissioner of Superior Court

## EXHIBIT A

### **EXCLUDED TANGIBLE PERSONAL PROPERTY**

All computer systems, all filing cabinets and storage boxes containing information as to the operation of the hotel as a franchisee together with any and all items contained in the living unit occupied by the Seller.



RAM KRISNA PR, LLC

The undersigned, being THE Manager and all of the Members of RAM KRISNA PR, LLC, a Connecticut limited liability company, hereby consent to the following action that would otherwise be taken at a meeting of the Manager and Members of the limited liability company, and do hereby waive all rights to and agree to dispense with all legal notice of said meeting, all as indicated by their signature hereto:

**RESOLVED:** that the Company be, and hereby is, authorized and directed to take such action as is necessary for it to sell the property known as 3 Lake Avenue Extension, Danbury, Connecticut (the "Property") to 3 Lake Avenue Extension LLC for Four Million Six Hundred Twenty Five Thousand (\$4,625,000.00) Dollars pursuant to that certain "Purchase and Sale Agreement" dated February 2021 as thereafter amended (the "Contract");

**FURTHER RESOLVED:** that the Company enter into a 1031 Tax Deferred Exchange utilizing the services of 1031 Northern Exchange, LLC ("Northern") pursuant to the terms of a certain Exchange Agreement dated as of even date herewith (the "Exchange Agreement").

**FURTHER RESOLVED:** that any action taken by Haresh Rangwani in his capacity as Manager of the Company prior to the adoption of the foregoing resolutions on behalf of the Company that are within the scope of or otherwise relate in any manner whatsoever to the authority granted or otherwise contemplated by the foregoing resolutions be, and the same each, are hereby, ratified, approved and confirmed in all respects.

**FURTHER RESOLVED** the Company hereby ratifies the terms and conditions of the sale of the Property as aforesaid all as set forth in the Contract and in the closing documents executed in connection therewith, copies of which have been reviewed by the Company and its members.

**FURTHER RESOLVED:** that, the Company hereby ratifies and confirms the terms of the 1031 Tax Deferred Exchange as set forth in the Exchange Agreement and the accompanying documents copies of which have been reviewed by the Company and its members.

Signed and dated at New Haven, Connecticut this     day of April, 2021.

We hereby declare, under penalties of false statement, that the statements in the foregoing paragraphs are true.

*Haresh Rangwani*

Haresh Rangwani

*Sunil Rangwani*

Sunil Rangwani

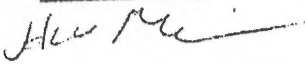
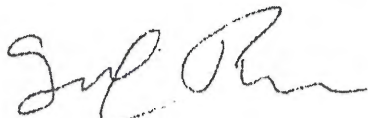
*Mukesh Rangwani*

Mukesh Rangwani


# MANAGER'S CERTIFICATE

The undersigned, Haresh Rangwani being the manager and a member of RAM KRISNA PR, LLC, a Connecticut limited liability company (the "Company") does hereby certify as follows:

1. The following is a list of the members of the Company, together with a specimen signature for each member:

<u>NAME</u>	<u>POSITION</u>	<u>SIGNATURE</u>
Haresh Rangwani	Manager/Member	
Mukesh Rangwani	Member	
Sunil Rangwani	Member	

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate as of the      day of April, 2021.

By:   
Haresh Rangwani  
Manager/Member  
of RAM KRISNA PR, LLC



distributions as set forth in this Agreement; and

(ix) Do and perform all such other acts as may be necessary or appropriate to the conduct of the Company's business.

(c) The Managers shall not have the authority without the prior approval of a Majority in Number to:

(i) Perform any act which violates the terms of this Agreement;

(ii) Cause the Company to incur any indebtedness for borrowed money;

(iii) Permit the Company to pledge or mortgage any property whether tangible or intangible;

(iv) Cause the Company to employ or terminate key employees;

(v) Cause the Company to make loans to Members, a Manager or its Affiliates;

(vi) Cause the Company to enter into transactions or agreements with Affiliates on terms and conditions other than those generally available in arms length transactions with unaffiliated third parties;

(vii) Cause the Company to purchase properties or other investments in exchange for interests in the Company;

(viii) Cause the Company to commingle its funds with the funds of others;

(ix) Bring and defend actions at law or in equity without approval by the Members or any other Managers.

## 6.2 MANAGERS:

(a) The business of the Company shall be managed by a General Manager who shall have the powers and authority set forth in 6.1(b). The General Manager shall hold his position until such time as he resigns or is terminated or replaced by another General Manager by the approval of a Majority in Number. The General Manager has no contractual right to his position and may be removed, with or without cause or notice, by a Majority in Number. The General Manager may delegate certain of his duties to Company employees or independent contractors, but may not delegate the authority to bind the Company.

(b) The Members may from time to time designate Persons as additional Managers, who shall have such titles, powers and tenure as the Members approve by a Majority in Number. Unless the Members otherwise provide by a Majority in Number, at any time there is more than one (1) Manager, the General Manager's decision on any issue shall be final as



### 3 LAKE AVE EXT

Location 3 LAKE AVE EXT

Mblu G15/ / 5/ /

Acct#

Owner RAM KRISNA PR LLC

Assessment \$2,512,900

Appraisal \$3,589,700

PID 21020

Building Count 1

#### Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2020	\$2,258,900	\$1,330,800	\$3,589,700
Assessment			
Valuation Year	Improvements	Land	Total
2020	\$1,581,300	\$931,600	\$2,512,900

#### Owner of Record

Owner RAM KRISNA PR LLC  
Co-Owner  
Address 3 LAKE AVE EXT  
SUPER 8 MOTEL  
DANBURY, CT 06811

Sale Price \$2,419,600  
Book & Page 1286/ 559  
Sale Date 11/08/1999  
Instrument 03

#### Ownership History

Ownership History				
Owner	Sale Price	Book & Page	Instrument	Sale Date
RAM KRISNA PR LLC	\$2,419,600	1286/ 559	03	11/08/1999
SUPER 8 MOTELS OF DANBURY INC	\$0	0672/0597		12/30/1982

#### Building Information

##### Building 1 : Section 1

Year Built: 1983  
Living Area: 32,340  
Replacement Cost: \$2,823,348  
Building Percent Good: 75  
Replacement Cost  
Less Depreciation: \$2,117,500

### Building Attributes

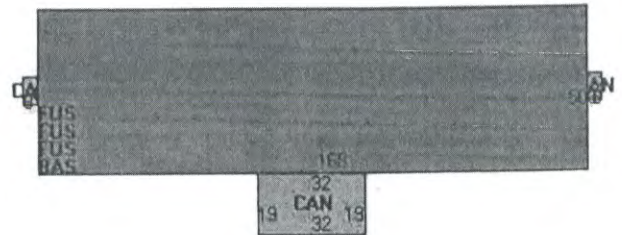
Field	Description
STYLE	Hotels( Limited S)
MODEL	Commercial
Grade	Average+
Stories:	4
Occupancy	86
Exterior Wall 1	Stucco/Masonry
Exterior Wall 2	
Roof Structure	Flat
Roof Cover	Tar & Gravel
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Floor 1	Carpet
Interior Floor 2	
Heating Fuel	Electric
Heating Type	Electr Basebrd
AC Type	Central
Bldg Use	Commercial MDL-94
Total Rooms	
Total Bedrms	00
Total Baths	0
1st Floor Use:	200
Heat/AC	HEAT/AC PKGS
Frame Type	STEEL
Baths/Plumbing	AVERAGE
Ceiling/Wall	SUS-CEIL & WL
Rooms/Prtns	AVERAGE
Wall Height	10
% Corn Wall	0

### Building Photo



(<http://images.vgsi.com/photos2/DanburyCTPhotos//00\00\52\72.JPG>)

### Building Layout



([http://images.vgsi.com/photos2/DanburyCTPhotos//Sketches/21020\\_210](http://images.vgsi.com/photos2/DanburyCTPhotos//Sketches/21020_210))

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
FUS	Finished Upper Story	25,200	23,940
BAS	First Floor	8,400	8,400
CAN	Canopy	672	0
		34,272	32,340

### Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
ELV1	Elevator	4 STOPS	\$117,600	1

### Land

### Land Line Valuation

### Land Use

**Use Code** 200  
**Description** Commercial MDL-94  
**Zone** CA80  
**Neighborhood** 8000  
**Alt Land Appr** No  
**Category**

**Size (Acres)** 1.52  
**Frontage** 0  
**Depth** 0  
**Assessed Value** \$931,600  
**Appraised Value** \$1,330,800

### Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAV1	Paving-Asphalt			20000 S.F.	\$21,000	1
LT1	Light 1			4 UNITS	\$700	1
LT3	Lights 3			4 UNITS	\$2,100	1

### Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2019	\$2,258,900	\$1,330,800	\$3,589,700
2018	\$2,258,900	\$1,330,800	\$3,589,700
2017	\$2,258,900	\$1,330,800	\$3,589,700

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$1,581,300	\$931,600	\$2,512,900
2018	\$1,581,300	\$931,600	\$2,512,900
2017	\$1,581,300	\$931,600	\$2,512,900

# Tab 5





# CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS  
(203) 797-4525  
(203) 797-4586 (FAX)

## APPLICATION FOR VARIANCE TO THE ZONING REGULATIONS

**ALL APPLICABLE QUESTIONS MUST BE ANSWERED AND APPLICATIONS MUST BE ACCOMPANIED BY THE REQUIRED SUPPORTING DOCUMENTS. AN APPLICATION WILL NOT BE SCHEDULED FOR PUBLIC HEARING UNLESS IT IS COMPLETE. THE APPLICANT OR A REPRESENTATIVE MUST APPEAR AT THE HEARING.**

### SUBMIT THE FOLLOWING:

- Three (3) copies of completed application (For a Use Variance, see below \*).
- Four (4) copies of a plot plan, certified by a State of CT Registered Land Surveyor, showing the location of all buildings with any proposed changes and the distances to the property lines.
- Three (3) copies of the legal land description (as found in the deed).
- Plain business size envelopes, pre-addressed to the abutting property owners.
- Filing fee of \$310.00, payable to the "City of Danbury" (includes \$60.00 State land use application fee as required per P.A. 09-3 §396 of C.G.S.).
- Legal Advertisement fee of \$500.00 for public hearing and notice of decision (to be paid at time of Application).

\* If this is a Use Variance, please submit four (4) additional copies of both the application and the plot plan. These additional copies will be given to the Planning Commission and the Zoning Commission according to Section 11.B.3.a. of the Danbury Zoning Regulations, which states they must review and make a recommendation on each Use Variance application.

Applicant's Name: 3 Lake Avenue Extension, LLC

Location of property: 3 Lake Avenue Extension, Danbury, Connecticut

Property is located on the north side of and distant approximately 226 from Lake Avenue Extension.  
\_\_\_\_\_ feet (north) (south) (east) (west) from \_\_\_\_\_ (name of nearest street).

Interest in property (Check One)

☐ Owner ☐ Developer ☒ Option Holder ☐ Other (describe) \_\_\_\_\_

Zone in which property is located: CA-80 Assessor's lot No: G15005

Dimensions of subject property: Frontage Approx 60 ft, Area 1.519 ac., Average Depth Approx 200 ft

List any municipality located within 500 feet of this property: N/A

If previous application has been filed for this property, list date and disposition of hearing:

N/A

Are there wetlands or watercourses on or near this parcel: yes \_\_\_\_\_ no x  
(If yes, this proposal may require review by the Danbury Environmental Impact Commission.)

Is parcel located within an Aquifer Protection Area or Public Water Supply Watershed: yes \_\_\_\_\_ no x  
See Attached Addenda for notice requirements and review "Public Drinking Water Source Protection Areas" map prepared by the State of Connecticut Department of Public Health. Map is available for review at the City of Danbury Permit Center, City Hall.

List section(s) of Zoning Regulations to be varied: Section 5.B.2.a CA-80, Uses, Permitted Uses

Describe variance being requested: Please see attached Exhibit A

Hardship: Please see attached Exhibit B

Use to be made of property (if variance is granted): Please see Exhibit A

Describe briefly any alteration or extension proposed to the existing building: None

TO APPEAL FOR CORRECTION OF AN ALLEGED ERROR in a decision of the Zoning Enforcement Officer, who on \_\_\_\_\_ (date), did ☐ did not ☐ grant a permit requested by

N/A

(An explanatory statement by applicant may be attached to this application form.)



**PLEASE USE SEPARATE APPLICATIONS TO APPLY FOR CERTIFICATES OF LOCATION APPROVAL FOR MOTOR VEHICLE LICENSES.** The Zoning Commission has jurisdiction over New or Used Car Dealers licenses and Limited and General Repairer's licenses. The Z.B.A. has jurisdiction over Gasoline Stations & Junk Yards.

FOR ALL APPLICATIONS, list abutting property owners names and mailing addresses (these should be verified in the Tax Assessor's office):

Blue Hills Fuels LLC, c/o PMB Northeast LLC (A. Kumar), 290 Telestar Court, Falls Church, VA 22042

EW Batista FLP, 21 Equestrian Ridge, Newtown, CT 06470

Housing Authority of the City of Danbury, 2 Mill Ridge Road, Danbury, CT 06811-5291

State of Connecticut, DOT, 2800 Berlin Turnpike, Newington, CT 06131-7546

\*\*\*\*\*

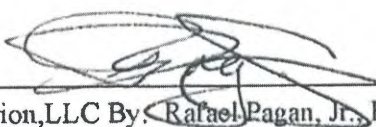
(1) The right to a variance involves certain legal standards and requirements. Applicants are advised to consult legal counsel for guidance in understanding these requirements and in completing this application.

(2) If the property is served by a septic system, the applicant should check with the Danbury Health Department prior to submitting an application for variance to be sure the proposed activity will be allowed under Health Department regulations. Also, if there are any wetlands or watercourses on the property, the applicant is advised to contact the Danbury Health Department to determine if Environmental Impact Commission approval will be required for the proposed activity.

(3) If this variance is granted, you will receive a letter and variance certificate by Certified Mail. This variance certificate must be filed on the land records in the Town Clerk's office for the variance to be in effect. This is important because once the variance is filed on the land records, it goes with the land. The filing fee is the applicant's responsibility.

Date: March 22, 2021

Signature(s) of Applicant

  
3 Lake Avenue Extension, LLC By: Rafael Pagan, Jr., Executive Director

Mailing Address 137 Henry Street, Suite 205, Stamford, CT 06902

Telephone Number(s): (H) (203) 406-0869 (W) \_\_\_\_\_  
(CELL) (781) 877-6512





## CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

PLANNING & ZONING DEPARTMENT  
(203) 797-4525  
(203) 797-4586 (FAX)

FOR OFFICE USE ONLY

DATE

REC. \_\_\_\_\_

FILE NO.:

### ADDENDA TO

Application for Site Plan Approval

Application for Special Exception Approval

Application for Subdivision or Resubdivision Plan Approval

Petition for Special Permit

Application for Variance to the Zoning Regulations

Application for Permit to Conduct a Regulated Activity, Environmental Impact Commission

Application for Administrative Approval, Environmental Impact Commission

### COMPLIANCE WITH PUBLIC ACT 06-53

Act Concerning Protection of Public Water Supply Resources

*Effective October 1, 2006*

The Connecticut General Assembly has revised Sections 8-3i and 22a-42f of the General Statutes of Connecticut to require that persons or entities filing applications with the City of Danbury Zoning Commission, Planning Commission, Zoning Board of Appeals or Inland Wetlands Commission ("EIC") concerning any project on any site that is within the aquifer protection area or watershed of a water company provide written notice to the Commissioner of the Connecticut Department of Public Health ("CTDPH"). This new notice provision to the Commissioner is in addition to the required notification to the water company. Said notifications shall occur no later than seven (7) days after the date of the application. ***Required notification to the Commissioner and water company is the responsibility of the applicant.***

The Public Drinking Water Source Protection Areas are delineated on the State of Connecticut Department of Public Health Map ("Map") available for review at the City of Danbury Permit Center, City Hall, 155 Deer Hill Avenue, Danbury, CT.

**The Commissioner of the CTDPH has prescribed the following Notification Process format:**

1. Refer to the Map available at the Permit Center to determine whether the project falls within a public water supply aquifer protection area or watershed area
2. Go to the CTDPH website at <http://www.dph.state.ct.us>
3. Click on "Programs and Services"
4. Click on "D" and then "Drinking Water Section"
5. Click on "Source Water Protection" on the right hand side menu
6. Follow the link to the Notification Process
7. Submit the form by clicking on the "submit" button

**PLEASE** be advised that the City of Danbury will require verification of submission of the notice to CTDPH and water companies as part of the completed land use application. A copy of the submitted form(s) is acceptable.

*Addenda Dated 'October 2006*

Page 4 of 4

## EXHIBIT A

Use Variance to allow the use of the Property as a "Shelter for the homeless with conditions." Use Variance to Section 5.B.2.a. CA-80, Uses, Permitted Uses

Proposed conditions:

- a. The structure shall contain no greater than 86 rooms.
- b. No greater than 48 rooms shall be utilized for supportive housing. Supportive housing for this shelter shall consist of a room for sleeping and may contain a kitchenette comprised of only a mini-refrigerator and microwave, a bathroom, and a required sink(s).
- c. Gas or electrical services for individual ovens, ranges, or cooktops and associated required venting in all rooms for sleeping occupied by those experiencing homelessness is prohibited.
- d. Shelter rooms are not considered dwelling units in accordance with existing Zoning Regulations.
- e. No exterior site alterations or façade changes shall be made without proper approvals and permits issued by the City of Danbury.
- f. The shelter building may contain be a room within the facility where food is provided to transient guests occupying the shelter rooms subject to all applicable permits.
- g. The shelter shall contain rooms for supportive services including but not limited to social and case management services, counseling, and similar programs and supportive services to enable individuals experiencing homelessness to transition to permanent housing and self-sufficiency.
- h. A layout plan of the shelter shall be submitted with any application for use of the site as a shelter. A Zoning Permit is required to utilize the site as a shelter.
- i. The shelter shall be operated by a non-profit organization that is under contract with the State of CT DOH to provide shelter and supportive housing and associated supportive services to individuals experiencing homelessness.
- j. All beds and rooms within the shelter shall qualify as affordable housing within the meaning of CGS Section 8-30g.
- k. Rooms assigned as supportive housing shall be deed restricted as family units, within the meaning of CGS Section 8-30g, and restricted to persons or families whose income is equal to or less than 40% of the state median income for a term no less than 40 years.
- l. Rooms assigned as shelter bed rooms shall be deed restricted as family units, within the meaning of CGS Section 8-30g, and restricted to persons whose income is equal to or less than 50% of the state median income for a period of not less than 15 years.



## EXHIBIT B

### HARDSHIP

1. Pursuant to Executive Order ("EO") No. 7P, the Commissioner of Public Health, Secretary of the Office of Policy and Management, and commissioners of Emergency Services and Public Protection and Housing are authorized to issue such orders as they deem necessary to provide or arrange non-congregate housing for people who from the nature of their existing housing are at increased risk of exposure to, infection with or transmission of COVID-19, and to seek reimbursement for any resulting expenditures from appropriate federal agencies or other sources.

2. In furtherance of EO No. 7P, on March 31, 2020, Seila Mosquera-Bruno, Commissioner of the Department of Housing, issued a Notice and Order Regarding Executive Order 7P Safe Housing for People Experiencing Homelessness in order to inform homeless shelter providers and other congregate housing providers of the availability of alternate housing and the procedures to access the alternate housing.

3. In furtherance of the above-referenced EO, on or about March 10, 2021 the State of Connecticut, Department of Housing, submitted a request to the U.S. Department of Housing & Urban Development, Hartford Field Office for the release of CDBG/Small Cities funds under Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301, et seq., as amended, 24 CFR 570 of the regulations of the United States Department of Housing and Urban Development, and Coronavirus Aid, Relief, and Economic Security Act of 2020 (Pub. L. 116-136 also known as the "CARES Act") to undertake a project known as Pacific House West for the purpose of acquiring the Super 8 Motel, 3 Lake Avenue Extension, Danbury, CT to establish a non-congregate emergency homeless shelter. DOH proposes to apply for up to \$5,000,000 to complete this project and has determined that the project will have no significant impact on the human environment and therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required.

4. Pacific House West represents the new model for transitional and supportive services to address the needs of individuals experiencing homelessness.

5. Governor Lamont determined, in consultation with the Commissioner of Public Health and other members of his leadership team, as noted in the eleventh "Whereas" clause of EO No 7P, that reducing density in congregate housing and providing alternate housing for people experiencing homelessness is necessary to protect public health and safety.

6. The State of Connecticut Department of Housing is under contract for the use of this property as a shelter, with supportive services, for individuals experiencing homelessness, has provided federal funds for purchase of the property, and will continue to provide funds for operation.





## CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

PLANNING COMMISSION  
www.danbury-ct.gov

(203) 797-4525  
(203) 797-4586 (FAX)

May 4, 2021

TO: Richard S. Jowdy, Chairman, Zoning Board of Appeals

FROM: Arnold E. Finaldi Jr., Chairman, Planning Commission

RE: ZBA Referral/ Zoning Board of Appeals Application #21-09: 3 Lake Avenue Extension LLC, 3 Lake Ave. Ext., (G15005), CA-80 Zone, Use Variance Sec. 5.B.2.a., Allow use of the property as "shelter for homeless with conditions."

---

At the regular meeting held on April 21, 2021, the Planning Commission reviewed the above referenced use variance application in accordance with Sec. 11.B.4.a. of the Zoning Regulations and voted to give this application a **positive** recommendation with the conditions that (1) the deed restrictions (as attached to the ZBA application) be recorded on the land records with ten days of the variance approval and (2) a copy of the Planning Department staff report be attached to the written recommendation. The reason given for this motion was that approval of this application as presented will uphold the integrity of the Zoning Regulations based on the following items:

- (A) this new "shelter" model will benefit the homeless in additional ways by offering counseling and other support services;
- (B) the New Street shelter will be permanently closed and the operation of this facility will be handled collaboratively by both the State Department of Housing and various local agencies including the City of Danbury;
- (C) this will add to the inventory of affordable housing units being provided by the City.
- (D) this is consistent with the Land Development Plan and the Housing Section in the Plan of Conservation & Development (POCD).

The motion for a positive recommendation was made by Mrs. Hoffstaetter, seconded by Mr. Chioocchio, and passed with five ayes from Mr. Chioocchio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Urice and Chairman Finaldi.

AEF/jr

Attachment: Planning Department Staff Report dated April 15, 2021



RECEIVED

MAY 11 2021

PLANNING & ZONING  
CITY OF DANBURY

**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

PLANNING & ZONING DEPARTMENT  
[www.danbury-ct.gov](http://www.danbury-ct.gov)

(203) 797-4525  
(203) 797-4586 (FAX)

To: City of Danbury Planning Commission  
City of Danbury Zoning Commission

From: Sharon B. Calitro, AICP, Planning Director

Date: April 15, 2021

Re: Application for Use Variance in CA-80 Zone, 3 Lake Avenue Extension LLC  
3 Lake Avenue Extension, Tax Assessor Lot G15005

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The Zoning Board of Appeals ("ZBA") has received an application for a use variance from 3 Lake Avenue Extension LLC for Tax Assessor Lot G15005 located at 3 Lake Avenue Extension. 3 Lake Avenue Extension LLC is the LLC of Pacific House West, the contract purchaser of the site. The current owner of the site, Ram Krishna PR LLC, authorized submission of the use variance application.

The application proposes to vary Section 5.B.2.a of the Zoning Regulations to allow a shelter for the homeless with conditions on the above-referenced site. The site, located in the CA-80 Zone, is currently occupied by an 86-room hotel structure that has, since March 2020, also been utilized, under direction of the State of Connecticut Departments of Housing ("DOH") and Public Health ("DPH"), as a shelter for the homeless.

In accordance with Section 11.B.4.a. of the Regulations, the ZBA has referred this application to both commissions for review and report. The ZBA public hearing is scheduled for May 13, 2021.

The hardship given by the applicant as to why the use variance should be granted is contained in the application.

Per the application, in furtherance of the Governor's Executive Order No. 7P to provide or arrange for non-congregate housing for people who, from the nature of their existing housing, are at increased risk of exposure to, infection with, or transmission of COVID-19, the State DOH informed homeless shelter providers (including the City of Danbury) of the availability of alternate housing. In this regard, the State DOH proposes to utilize federal Coronavirus Aid, Relief, and Economic Security "CARES" Act funds from the US Department of Housing & Urban Development to purchase and establish a non-congregate emergency homeless shelter at this site. The DOH has determined that the project will not have a significant impact on the human environment and therefore no Environmental Impact Statement under the National Environmental Policy Act of 1969 is required.



## Comments on the Application

The CA-80 Zone is an arterial commercial Zoning District that allows a variety of uses. The site proposed to be used as a shelter for the homeless with conditions is 1.52 acres in size and is considered a preexisting non-conforming lot. A copy of the approved site plan from 1987 was also included with the variance application. Hotels and motels are permitted uses in the CA-80 Zone.

Vehicular access to the lot is from an arterial road, Lake Avenue Extension. The lot borders State land of Interstate 84 and land of the Danbury Housing Authority in the RMF-4 Zone, a multi-tenant retail structure in the CA-80 Zone, and a gasoline station in the CN-5 Zone.

The applicant has proposed a number of conditions that include, among other restrictions, provisions that would limit the number of supportive housing rooms in the building, restrict any rooms that individuals experiencing homelessness occupy from having cooking appliances/venting that would constitute a kitchen, identification of required information and other plans that may be required for permits, and assurances that all rooms would meet the definition of affordable housing within the meaning of CGS Section 8-30g via recorded deed restrictions.

As you are aware, granting of a use variance extends a right to use property that is not extended to other landowners. A ZBA cannot grant a variance for a use which is inconsistent with the general purpose and intent of the Zoning Regulations or which impairs the integrity of the comprehensive plan (the zoning regulations), see Fuller Section 9.2, *Connecticut Land Use Law and Practice*. Hotels are permitted uses in the Zone and proffer rooms to transient guests and often provide rooms for other accessory uses such as conferences. Shelters also provide lodging to a transient population and in this specific case, will also be required to provide supportive services in other rooms. For the supportive housing rooms, Staff understands from the petitioner that the State will issue vouchers as payments to 3 Lake Avenue Extension LLC to aid in the operation of the facility.

In terms of the definition of the rooms in the facility, neither hotels or motels nor shelters for the homeless are considered dwelling units under the Zoning Regulations. And, the prohibition on cooking facilities within rooms occupied by those experiencing homelessness will ensure that said rooms do not become dwelling units.

Therefore, in this specific instance, under the declared public health and civil preparedness emergency and State DPH orders regarding housing for persons experiencing homelessness, and in accordance with Section 9-2 of Fuller, the commissions may reasonably conclude that this use variance would not result in a substantial change in the uses permitted in the CA-80 Zone.

Proposed conditions "g," "j," "k," and "l" regarding requirements for supportive services, compliance with CGS Section 8-30g, and the proposed deed restrictions all provide public benefits for the City of Danbury. The condition mandating support services ensures that the facility will not just provide a bed with a meal but will provide its clients with services necessary to enable them to transition to permanent housing and self-sufficiency. The deed restrictions related to affordable housing ensure that the rooms/beds will count towards the City's tally of affordable housing units and/or for a future moratorium. The addition of affordable units, deed restricted or governmentally assisted, is a significant benefit to the City.

## Plan of Conservation and Development ("POCD")

The Land Development Plan Map of the POCD recommends this property be used for general commercial uses, which includes "a wide range of retail sales and services, offices, medical facilities, entertainment, community facilities, wholesale distribution, assisted living and nursing homes." Hotels provide a service as they serve transient persons, much the same a homeless shelter, except that their guests pay. Those



individuals experiencing homelessness are without shelter and, in many instances, without sufficient funds to pay. The commissions could reasonably conclude that use of the site as a shelter for the homeless, while not specifically noted in the General Commercial description, is a similar use as a hotel and therefore not inconsistent with the property designation on the Land Development Plan Map. Similarly, shelters are allowed in the CBD and RH-3 Zoning Districts while not listed in the category of land uses as noted in the POCD for those designations.

The Housing section of the POCD (page 35) provides that the City should undertake actions to expand the supply of affordable housing. As a condition of this use variance, the beds/rooms within the proposed shelter will be required to meet the definition of affordable housing within the meaning of CGS Section 8-30g and therefore the use is consistent with this recommendation. These affordable housing conditions ensure that Danbury will increase its number of affordable units (as defined in the statute) for the purposes of the Affordable Housing Appeals list and any related moratorium application.

The Housing section (page 36) also recommends the support of actions that meet the housing needs of special needs groups, including the homeless. In the case of Pacific House West and the plans for the use of the site, a condition requires that the shelter contain rooms for supportive services including but not limited to "social and case management services, counseling and similar programs and supportive services to enable individuals experiencing homelessness to transition to permanent housing and self-sufficiency." This is the new prototype for transitional and supportive facilities providing services to address the needs of individuals experiencing homelessness and, in the present instance, is a model endorsed by the State. Therefore, the commissions may reasonably conclude that the proposed use is consistent with this section of the POCD.

## Conclusion

Purchase and use of the site as proposed for a shelter utilizing federal funds allocated to the DOH represents a more global response to the issue of homelessness specifically, but not only, during the declared public health emergency. The public benefits associated with this use on this site include the provision of not just a place for a person experiencing homelessness to sleep and receive a meal but also counseling and other supportive services to help persons transition to permanent housing. The City's shelter on New Street will cease operations as this new site will provide the approved alternative non-congregate housing consistent with the requirements of the State. This is also a benefit. The State DOH will continue to provide funds for the shelter operation and some oversight and, local agencies including the City of Danbury, will still be involved in housing for this population. This strategy represents a combined collaborative effort. Finally, and as significant, adding affordable units/beds to the City's inventory of affordable housing is a substantial benefit to the City. To ensure compliance with the affordable housing restrictions contained in conditions "j," "k," and "l," Staff recommends the commissions add to the report to the ZBA that the ZBA condition the use variance on the applicant recording the deed restrictions, prepared to the satisfaction of the Office of the Corporation Counsel, within 10 days of the granting of the use variance.

Therefore, and for the above-stated reasons and including the noted recording condition, the application for this use variance with conditions upholds the integrity of the Zoning Regulations. As such, Staff has no objection to this request. Staff requests a copy of this report be attached to the reports sent by the commissions to the ZBA.

C: Sean Hearty, Zoning Enforcement Officer  
Robin Edwards, Assistant Corporation Counsel  
Jennifer Emminger, Deputy Planning Director  
Rafael Pagan, Jr., Exec. Director, 3 Lake Avenue Extension LLC  
H. Scott Miller, Attorney





## CITY OF DANBURY

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ZONING COMMISSION  
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May 11, 2021

TO: Richard S. Jowdy, Chairman, Zoning Board of Appeals

FROM: Theodore J. Haddad Jr., Chairman, Zoning Commission

RE: ZBA Referral/ Zoning Board of Appeals Application #21-09: 3 Lake Avenue Extension LLC, 3 Lake Ave. Ext., (G15005), CA-80 Zone, Use Variance Sec. 5.B.2.a., Allow use of the property as "shelter for homeless with conditions."

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At the regular meeting held on April 27, 2021, the Zoning Commission reviewed the above referenced application for use variance in accordance with Section 11.B.4.a. of the Zoning Regulations and voted to give a positive recommendation with the following conditions: (1) that deed restrictions, prepared to the satisfaction of the Office of the Corporation Counsel, as referred to in the use variance conditions submitted with the petition related to affordable housing restrictions be recorded on the City land records once the variance is granted, and (2) that a copy of the Planning Department staff report dated April 15, 2021 be attached to the recommendation. The following reasons were given for this motion:

- (1) Approval of this use for this site will uphold the integrity of the Zoning Regulations and add to the City's affordable housing inventory;
- (2) The homeless will benefit from this new shelter model because they will receive counseling and support services as well as a bed and a meal;
- (3) The New Street shelter will be closed;
- (4) The State and various local agencies (including the City) will provide financial and other support to help address this special needs population;
- (5) The use of this property for this purpose is consistent with the Land Development Plan and the Housing Plan Sections in the Plan of Conservation & Development (POCD).

The motion to give this a positive recommendation was made by Mr. Melillo, seconded by Mrs. Fay, and passed unanimously with seven ayes (from Mr. Almeida, Mrs. Fay, Mrs. Hylenski, Mr. Jowdy, Mr. Melillo, Mr. Eriquez & Chairman Haddad) and two members not voting (due to absence).

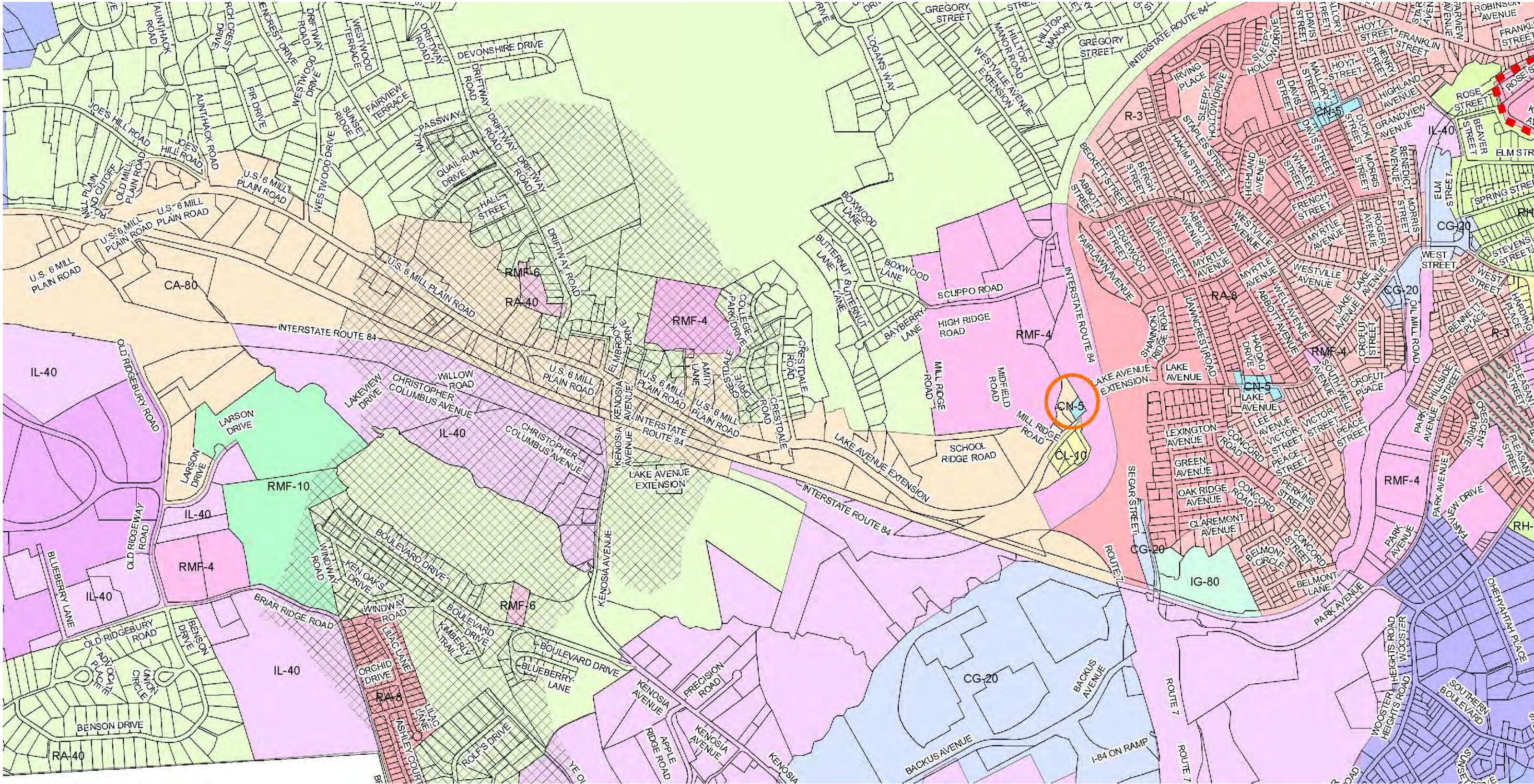
TJH/jr

Attachment: Planning Department Staff Report dated April 15, 2021

Tab 6



3 Lake Ave Ext. Circled Below in Red





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3 Lake Ave Ext. Circled Below in Red

